



EXECUTIVE WHITE PAPER

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Careless job offers get organizations into trouble in one of three ways...

## Avoiding the Pitfalls of Job Offers

You've just interviewed the perfect candidate for your VP of Sales opening. He falls neatly within your salary range, can start right away, and you think you're in the home stretch. However, if you thought the tricky part was over... read on. Many companies are finding out the hard way that presenting the right kind of job offer, one that not only tempts the candidate into accepting the job, but also one that covers the company's liability, can be equally challenging.

Over the past decade, there has been a noticeable increase in the US Court system of cases involving employment contracts. Some employees claim they were promised compensation that they never received, while others dispute grounds of termination. How can companies in the chemical industry prevent such misunderstandings and the costly lawsuits that can result? First, you have to recognize and avoid major job offer pitfalls. Second, you have to learn to prepare offer letters carefully so they protect rather than harm you.

### Three Danger Areas

*Careless job offers get companies into trouble in one of three ways:*

#### **The offer letter is regarded as a contract.**

According to the Smart Workplace Practices newsletter, "Letters determined to contain a contractual agreement and letters containing no contractual agreement are for the most part indistinguishable." (There are some good offer letter writing tips described later in this article.)

#### **The offer letter makes unintentional promises.**

In one case, an employee's letter promised that the company would pay one-half of his relocation expenses immediately and the remainder after one year of employment. When he was terminated before his year anniversary, he sued the company,



claiming the offer letter implied his employment contract was intended to last at least a year. He won the suit.

The lesson is this: never make implicit or explicit promises that you may not keep. Statements that merely allude to job security or bonus assurances can be interpreted as contractual obligations by the courts.

#### **The offer letter contains information that conflicts with statements made during the interview.**

Your words can be interpreted as implied promises, even if you never put them in writing. These seemingly harmless statements have gotten companies into trouble:

- You'll be with us as long as you can do your job.
- This is a company where you can stay and grow.
- You won't be fired without just cause.

The problem can become especially troublesome when more than one of your employees interviews a candidate. While Bob might not have mentioned quarterly bonuses,



perhaps Gail did. That's why it's critical to make sure anything discussed is fully explained in your offer letter.

## Preparing an Offer Letter

The following suggestions can help you prepare a clear offer letter, which may avoid costly problems in the future:

### Stick to specifics.

Include information such as position offered, location and working hours, salary, benefits, and starting date. Whenever possible, refer the candidate to official reference material (e.g., employee handbooks, health plan handbooks, stock option vesting requirements).

### Write exactly what you mean.

Unclear writing is open to interpretation, and that's when lawsuits arise. For example, if the employee can earn quarterly bonuses, describe all eligibility requirements. Better yet, refer him or her to the official document outlining the bonus process.

### Make sure company documents agree.

Trouble can occur when the offer letter states something different from other company literature, like your employee handbook or your job description.

### Indicate the offer is conditional.

Avoid phrases like "permanent position" or "direct employment." And clearly indicate those factors upon which the job offer is contingent (e.g., drug test, skills test, reference check, background investigation).

### Avoid dangerous terminology.

Most troublesome is language implying job security—phrases like "stable working environment," "company family," or "lack of layoffs within our organization."

### Watch what you call the letter.

A Letter of Employment sounds a lot like a legal contract. Instead, call it a Letter of Understanding.

### Stress employment-at-will rights.

Most states have employment-at-will laws that allow you wide latitude when you must fire an employee. To protect yourself, include a statement that reaffirms your right and the employee's right to terminate the employment at will. Further indicate that you or the employee can terminate employment for any reason—just cause should never be a condition.

### Ask someone to review the letter.

It helps to have a fresh pair of eyes read the letter and look for potential problems. Preferably, this person should not be directly involved in the hiring process.

Of course, the suggestions above should not be misconstrued as legal advice. It's always a good idea to allow your attorney to review employment documents.

## Protect Yourself

Don't let a sloppy job offer cost you time, legal expense, or your good name. With up-front preparation, your offers can clarify conditions of employment, persuade candidates to join your company, and protect you from trouble down the road. Well-designed offers are a prudent—and much less costly—alternative.

# ABOUT PATRICK ROPELLA



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Ropella, with 25 years experience, is the leading executive search and consulting firm specializing in the chemical, consumer products, technology and energy industries.

We help many of the world's largest companies find, hire, develop and retain their most important people. We recruit globally in sales, marketing, R&D, and manufacturing, from middle management to the most senior executive levels. At Ropella, not only do we find great leaders, we can also help you build a stronger, more competitive, and more innovative team with our Leadership and Organizational Improvement consulting services.

Nothing is more important to your company's ability to create value than the right blend of talent. Call us today and put our people and our process to work for you.

Having dedicated his career to helping companies across the globe in sourcing, marketing to, assessing, recruiting, on-boarding, retaining, training and transforming top talent, Patrick Ropella has a global perspective on Executive Search and Talent Management.

He has worked across all roles and functions, cascading from the top levels of management to also placing apprentices coming straight out of college. Over the past 20+ years he has seen many individuals he's personally assisted make career transitions, become well trained leaders, join the C-suite at many of the world's largest corporations.

His experience within the global chemical industry as a dominant talent management leader allowed his firm, Ropella Group, to grow to the leading position it now holds with a wide variety of corporate clients with the chemical industry, transition to serving major consumer product companies, energy companies, Nano, Bio and other high technology companies.

Patrick has traveled extensively, meeting with middle level to C-level executives at the top 100 largest chemical and consumer product companies in the world, branding the "Ropella" name globally. He has successfully placed hundreds of senior level executives with top name companies, including but not limited to: DOW, DuPont, Exxon, Georgia Pacific, SONY, Anderson Windows, GE-Silicone, P&G, Clorox, Pfizer, BASF, PPG, Monsanto, Revlon, Baxter Labs, Sealy Mattress, Ciba Geigy, Johnson & Johnson, Shell, Sherwin Williams Paints, New Balance Tennis Shoes, and many more.

Patrick has written for a wide variety of trade publications, newspapers and business journals on subjects related to the topics covered in The Right Hire. His writings have also been published in Germany, Italy, Latin America and Asia.

Patrick and Robbie reside in Milton, FL. with sons Richard and Robert nearby.

## AUTHOR OF

- ▶ The Right Hire
- ▶ The Right Fit
- ▶ The Right Team
- ▶ Over 50 published articles



Patrick Ropella's **SMART Talent Management System** focuses on training Human Resource leaders and Hiring Managers based on the core Talent Management topics of:

**S**ourcing, **M**arketing, **A**ssessing, **R**ecruiting, **R**etention, **T**raining, and **T**ransformation.